

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

ERIC JON TUELL,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-09-359


**ORDER ADOPTING MEMORANDUM AND  
RECOMMENDATION TO DENY PETITIONER'S  
MOTION TO PROCEED *IN FORMA PAUPERIS***

On December 28, 2009, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that petitioner be found to be not indigent and that his application to proceed *in forma pauperis* (D.E. 2) be denied. The Magistrate Judge recommended further that petitioner be instructed to pay the filing fee within twenty (20) days of the date of entry of any order adopting the memorandum and recommendation, or voluntarily dismiss the petition; and that petitioner be advised that failure to pay the filing fee within the time period proscribed may result in dismissal of his petition for failure to prosecute. Seeing no objection to this recommendation by either party and having now reviewed the recommendation, and noting that petitioner in fact paid the required filing fee on January 12, 2010, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, the Court finds that petitioner is not indigent and it is

ORDERED that petitioner's application to proceed *in forma pauperis* is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 14th day of January, 2010.

  
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Janis Graham Jack  
United States District Judge